IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.18586 of 1997

Dated: 29-01-2007

Between:

Lakkineni Venkateswara Rao, s/o late Jogaiah,
aged about 58 years, agriculture,
r/o Pegallapadu village, Tekulapally Mandal,
Khammam District.

... Petitioner

and

1. The District Collector, Khammam and 2 others.

... Respondents

ORDER:

This petition is filed seeking *mandamus* declaring the order of the second respondent vide proceedings in Rc.No.C/4041/97, dated
30-07-1997 as illegal and arbitrary and consequently direct respondents and their staff not to dispossess petitioner from the land admeasuring Ac.51-04 guntas inSy.Nos.133/6 (old) i.e. New Nos.133/2 & 133/3 situated at Pegallapadu village,Tekulapally Mandal, Khammam District.

2. It is the case of petitioner that he has been in peaceful possession and enjoyment of his ancestral land admeasuring

Ac.51-04 guntas in Sy.Nos.133/2 and 133/3 and the Assistant Director of Survey and Land Records along with Deputy Inspector of Survey and Mandal Surveyor and others came to the spot and surveyed the land and finally submitted report to the District Collector on 21-09-1995, wherein it was categorically mentioned that he is in possession of the said land. It is further stated that the Government had assigned part of the land in Sy.No.133/7 on papers by acquiring the said land. The grievance of petitioner is that second respondent through the impugned order dated 30-07-1997 stated that the pattadar of Sy.No.133/6 is one L. Satyanarayana Rao, but not the petitioner and based on the said order, respondents are trying to disturb the possession of petitioner.

3. Heard learned counsel for the parties.

4. Learned counsel for petitioner fairly submitted that under the Revenue Laws there is a right of appeal against the impugned order passed by second respondent and petitioner approached this Court without exhausting the said remedy.

5. As the question involved in this writ petition is purely a disputed question of fact, which cannot be decided by this Court in exercise of the powers under Article 226 of the Constitution of India, there shall be a direction to petitioner to file an appeal or civil suit before the appropriate forum and on such move by petitioner, the said authority should decide the same in accordance with law.

6. Accordingly, the writ petition is disposed of. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.29-01-2007

GLV